2008 and 2009 QAP Changes as outlined in the Housing and Economic Recovery Act of 2008

1. INCREASE THE MINIMUM REHABILITATION THRESHOLD FOR ACQUISITION AND REHABILITATION CREDITS TO THE GREATER OF 20 PERCENT OF ELIGIBLE BASIS AND $6,000 PER UNIT.

Change to Paragraph 5.b. Page 2, New Construction or Substantial Rehabilitation – line 7, page 4. 2008-2009 QAP

Change 10% to **20%**.

Discussion – Currently, the QAP stands at 10 percent and $10,000. The $10,000 value already exceeds the newly established $6,000 value. Change has minimal potential impact on cost of rehab, but with $10,000 established in the QAP, there will greater emphasis on insuring adequate work is done on larger projects.

Staff action – update QAP's

Recommendation – Approval

2. BOARD MAY AWARD 30% BOOST (130% BASIS BOOST) TO BUILDINGS NOT IN A DDA OR QCT THAT BOARD DETERMINES NEEDS THE ADDITIONAL BOOST (OR A PORTION UP TO 130%) FOR ECONOMICAL FEASIBILITY. (FOR PROJECTS PLACED IN SERVICE AFTER JULY 30, 2008)

For the Amended 2008 QAP

Add as paragraph 1h, page 12

h. 130% of the normal credit amount may be allocated to buildings which are designated by the MBOH as requiring an increase in tax credits to enhance the project's financially feasible. ***The board, upon review of approved allocations, may determine that buildings not in a QCT or DDA area may be considered for and allocated additional tax credits prior to the end of 2008.*** **Considerations for projects that may require a boost include but are not limited to equity gap, higher cost of land, construction material, unit size, lower rents, elements of energy or green building, and credit pricing. Projects that were allocated tax credits in 2008 that were in a QCT or DDA will not be considered.**

For the 2009 QAP

Add as paragraph 1h, page 12

h. 130% of the normal credit amount may be allocated to buildings which are designated by the MBOH as requiring an increase in tax credits to enhance the project's financially feasible. ***The board, at the time of allocations, may determine that applications having buildings not in a QCT or DDA area may be considered for and allocated additional tax credits.*** **Applications for projects not located in a DDA or QCT may be submitted with calculations for tax credits to be allocated at 130% at the 9% rate. Applicants must justify in the narrative their reasoning for receiving the 130% boost. At review, by the staff, the application will be analyzed to determine an amount up to 130% that ensures the project's financial feasibility. Considerations for projects that may require a boost include but are not limited to equity gap, higher cost of land, construction material, unit size, lower rents, elements of energy or green building, and credit pricing. Projects that are allocated tax credits in 2009 in a QCT or DDA will not be considered.**

Staff action – Change verbiage to QAP's and provide recommendations for Board consideration

Discussion - Board assists economical feasibility for projects that would otherwise incur greater difficulties building a project without the additional boost

- ⇒ Considering equity gap,
- ⇒ Increased costs related to syndicating and pricing credits
- ⇒ Increased costs for materials, taxes, utilities, and impact fees, etc

Staff action – update QAP's

Recommendation – Approval

3. ADD HISTORIC REFERENCE TO QAP.

Change to Scoring Item 10. Preservation of Affordable Housing Projects, Page 25.

For the acquisition and rehabilitation of buildings with historic preservation designations, existing housing stock, **and** projects applying for rehabilitation tax credits that have completed their initial 15-year compliance period (0-2 points).

Discussion – Meets the requirements and intent of the Act.

Staff Action – Add verbiage to QAP for historic preservation

Recommendation – Approval

4. ELIMINATING BELOW-MARKET FEDERAL LOANS FROM DEFINITION OF FEDERALLY SUBSIDIZED PROPERTIES ALLOWS THE 9 PERCENT CREDIT FOR PROJECTS PLACING BUILDINGS IN SERVICE AFTER JULY 30, 2008 (THROUGH 2013).

Add to Paragraph 8.a.1. Determination of Credit Amount, page 27.

> **(1)** The sources and uses of funds and total financing planned for the project. **Sources of Funds including loans using "federal funds" i.e., HOME grant money, Rural Development, etc., made by or through a parent organization to a project may be loaned at a rate below AFR. Such loans will not reduce the basis for the project providing they are true loans made with monthly payments and an annual debt. Loan agreements must be provided at issue of 8609s to verify loans made to the project. Grants made with federal funds directly to a project will reduce basis.**

Discussion -

- ⇒ Allows projects to use below-market loans for source of funds rather than reducing basis by amount of loan(s)
- ⇒ Insure loan are in place at time of 8609(s)

Staff action – Change verbiage to QAPs to state:

Recommendation – Approval

5. THE ACT EXTENDS THE TIME DEVELOPERS HAVE TO MEET THE 10 PERCENT CARRYOVER ALLOCATION TEST TO ONE YEAR FROM ALLOCATION, EFFECTIVE FOR BUILDINGS PLACED IN SERVICE AFTER DATE OF ENACTMENT.

Change verbiage in Paragraph 20.a. for Carryover Allocations to state:

> a. **MBOH** requires that more than 10% of the expected basis in a project,…

Discussion: The Act has provided the opportunity to extend the 10% carryover to one year from six months.

- ⇒ Allocations are made at the 10% Carryover, presently at the end of December of the year reservation (normally April)
- ⇒ Extending the 10% Carryover would severely impact "readiness to proceed" for developers by allowing them to put off cost and not begin the project.
- ⇒ At the end of the year credits are reserved, projects should easily incur 10% of total costs with land, architect & engineer cost, application, market study, loan, and syndication costs, etc.

⇒ This may work for GO Zone (hurricane affected areas) but does not effect our considerations.

⇒ Expense (materials, impact fees, etc.) may escalate making it more difficult to meet the 10% at a later date, so it is more advantageous for completing the 10% carryover sooner than later.

Staff action – update QAP's

Recommendation – 1. Approve change as stated above. 2. NOT approve extending the 10% carryover to one year.

6. ELIMINATING THE ANNUAL INCOME RECERTIFICATION REQUIREMENT FOR 100 PERCENT QUALIFIED UNIT DEVELOPMENTS.

Change to Paragraph 33, Tenant Income Certifications, Page 35.

33. Tenant Income Certifications. An annual Tenant Income Certification must be completed and signed by the owner/manager and tenant, and filed with the MBOH, in addition to the Owners Annual Certification. Projects which are 100% low income **and** every unit is occupied by a qualified tenant and credit is claimed on 100% of the units must provide certifications for all tenants the first year or each year until the project reaches 100% low income occupancy. **Managers will recertify tenants on their first anniversary. The tenant will then complete self-certifications annually thereafter on the anniversary of move-in on a form provided by MBOH. Thereafter, projects less than 100% low income will continue to complete and maintain annual tenant income certification for each unit.**

a. The MBOH will NO LONGER accept Form FmHA 1944-8 Tenant Certification For Rural Development projects.

b. Project that have outstanding IRS Forms 8823 must be certified by the MBOH by successfully meeting all the compliance requirements without issue to be authorized to no longer complete and maintain Tenant Income Certifications. Projects will notify MBOH Multifamily of their desire to be audited and inspected, date that the project will be ready to be audited. Upon successful audit, they may be authorized to proceed thereafter under the provisions of the Housing and Economic Recovery Act of 2008.

c. For all other projects **that are not 100% tax credit**, the owners must complete the MBOH Tenant Income **Certification** and file it with the MBOH on an annual basis for each tenant. MBOH will not require owners to send in documentation supporting the numbers represented on the form with the Tenant Certifications. MBOH will review supporting documentation as part of the On-Site Review process. With MBOH approval, an owner's form may be substituted, if it contains all the required information. Please note the tenant must certify income "under penalty of perjury".

Changes to Paragraph 36., On-Site Review Process, Page 35.

a. The MBOH will perform an on-site review and inspection of each project at least once every three years. MBOH will notify the owner/manager in advance prior to the review. During this review MBOH staff will:

1. Tour and inspect the project and inspect a minimum of 20% of the units in each building. MBOH, at its discretion, may request to view additional units based on the initial inspection. The MBOH will not notify the Owner/Manager which units are to be sampled in advance.

2. Inspect supporting documentation for numbers represented on the of Tenant Income **Certification** for a sample of tenants. The MBOH will not notify the Owner/Manager of which tenant records are to be sampled in advance.

3. Inspect **lease-up** rent records for **each** unit **and new tenant**.

b. If applicable, review completed IRS Forms 8609 and Schedule A of Form 8609 for the project for the last tax filing.

c. Complete copies of tenant official tax credit rental files from original lease-up forward must remain within the State of Montana at the location of the rental property or the regional in-state office **for each unit**.

Change to Paragraph 37.a.6., Record Retention, Page 36.

6. The **tenant** income certification of each low income tenant (by unit)**.**

Discussion - This aligns with Housing and Economic Recovery Act of 2008 but provides two additional requirements. The first is that the project will conduct one additional recertification on the first anniversary of the tenant's move-in to verify that the tenant was not over income at time of move in and remains eligible. The second issue is the annual self-verification completed by the tenant to allow the MBOH to report items as directed by HUD.

Staff action – update QAP

Recommendation – Approval